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PJ

JANET M. HEROLD  
Regional Solicitor  
IAN H. ELIASOPH  
Counsel for Civil Rights  
LAURA C. BREMER  
Senior Trial Attorney  
Office of the Solicitor  
UNITED STATES DEPARTMENT OF LABOR  
90 7th Street, Suite 3-700  
San Francisco, California 94103  
Tel: (415) 625-7757  
Fax: (415) 625-7772  
Email: robinson.kimberly@dol.gov

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**UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

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**OFFICE OF FEDERAL CONTRACT  
COMPLIANCE PROGRAMS, UNITED  
STATES DEPARTMENT OF LABOR,**

Plaintiff,

v.

**ORACLE AMERICA, INC.**

Defendant.  
\_\_\_\_\_

Case No. 2017-OFC-00006

**DECLARATION OF NORMAN E. GARCIA**

I, Norman E. Garcia, make this declaration, under the penalty of perjury.

1. I am employed as a Senior Trial Attorney by the United States Department of Labor, Office of the Solicitor ("SOL"), an Agency of the United States government, with its business address at 90 7th Street, Suite 3-700, San Francisco, CA 94103.

2. I am one of the SOL attorneys assigned to this case and have been involved in the meet and confer process between the parties.

3. I possess personal knowledge of the matters set forth in this declaration. I am competent to testify to the same, and if called to testify my testimony would be as stated in this declaration.

4. OFCCP propounded document production requests on February 10 and 21, 2017. Attached at Exhibit 1 is a true and correct copy of the document production requests that OFCCP served Oracle on February 10, 2017. Attached at Exhibit 2 is a true and correct copy of the document production requests that OFCCP served Oracle on February 21, 2017.

5. Oracle refused to meet and confer about requests for data until OFCCP interviewed witnesses about Oracle's systems, whom Oracle finally agreed to provide informally in June.

6. To date, Oracle has produced only 23,053 pages of documents, many of which are emails between OFCCP and Oracle or duplicates of documents previously produced. Attached at Exhibit 3 is a true and correct copy of an e-mail identifying the latest document production that OFCCP received from Oracle. This e-mail identifies that Oracle is producing documents having Bates stamp numbers 22,921-23,053. Oracle has not produced any data to date.

7. The data that OFCCP requested and that Oracle represents that it is collecting includes numerous data fields that Oracle did not provide during the compliance review, such as educational background, recruiters' notes, compensation history, performance ratings, and a myriad of other data points. Attached at Exhibit 4 is a true and correct copy of the June 30, 2017, meet and confer letter that Marc Pilotin for OFCCP sent JR Riddell describing the databases and data OFCCP is seeking.

8. Signaling that OFCCP may need to perform additional work once it receives the data, Oracle cautioned that the data may be incomplete. Attached at Exhibit 5 is a true and

correct copy of the July 11, 2017, meet and confer letter that JR Riddell for Oracle sent to Marc Pilotin for OFCCP. *See* page 6.

9. On May 24, 2017, JR Riddell, Oracle's counsel, sent me a letter wherein he stated: "As we have confirmed on multiple occasions, we intend to produce a privilege log, and never indicated we would not be producing one. We are working on one now, intend to produce it, and will do so no later than June 12." Emphasis added. In addition to this letter, both Gary Siniscalco and JR Riddell repeatedly stated during the meet and confer teleconferences that Oracle will produce a privilege log to OFCCP no later than June 12, 2017. To date, Oracle has not produced a privilege log to OFCCP.

10. In Exhibit 2, OFCCP requested Oracle's pay equity analyses (RFPs 71-72), adverse impact analyses (RFP 78), and total in-depth employment analyses (RFP 80) that Oracle was required to perform pursuant to OFCCP's regulations. In Exhibit 2, OFCCP also requested Oracle's evaluation of hiring components/steps (RFP 79), and hiring and compensation validity studies (RFPs 87-88).

11. Attached at Exhibit 6 is a true and correct copy of document production responses that Oracle served on March 20, 2017, in response to Exhibit 2. Oracle did not produce a privilege log to support its privilege claims with its responses or at any time.

12. The six boilerplate unsupported objections were: "overbroad in scope, uncertain as to time, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case." The "to the extent" privileges were work product and attorney-client. Oracle also made confidential/trade secret objections that were resolved with a protective order.

13. On August 16, 2017, Oracle informally supplemented its responses, claiming for the first time that it had no responsive documents for any of the RFPs except 80.

14. Oracle made this claim in its third amended & supplemental response to this production set and after 24 hours of teleconferences, 25 formal letters and scores of e-mails addressing OFCCP's requests.

15. Attached at Exhibit 7 is a true and correct copy of the e-mail that Shauna Holman-Harries sent Hea Jung Atkins of OFCCP on June 2, 2015. Attached at Exhibit 8 is a true and correct copy of the April 27, 2015, letter, containing item 3 (pp. 1-2) from Hea Jung Atkins to Ms. Holman-Harries that she was referring to in her June 2, 2015, e-mail.

16. Attached at Exhibit 9 is a true and correct copy of Lisa Gordon's signed interview. *See* pages 13-14 for the lines quoted.

17. Attached at Exhibit 10 is a true and correct copy of the e-mail that Shauna Holman-Harries sent Hoan Luong of OFCCP on October 29, 2015. Item 1 of this e-mail is quoted directly from item 1 of Ms. Luong's July 30, 2015, letter, to Gary Siniscalco, a true and correct copy of it is attached as Exhibit 11. The one exception to the direct quote is that Ms. Holman-Harries used dashes for the dates while Ms. Luong used slashes for the dates.

18. Attached at Exhibit 12 is a true and correct copy of the letter that Gary Siniscalco sent Robert Doles of OFCCP on April 11, 2016. *See* page 3, 3rd paragraph from the top for the quotation.

19. Attached at Exhibit 13 is a true and correct copy of Oracle's responses to OFCCP's first set of document production requests. In response to RFPs 3 and 4, Oracle, *inter alia*, stated: "After conducting a reasonably diligent search, Oracle does not have responsive documents in its possession, custody or control." *See* pages 13-14. Attached at Exhibit 14 is a true and correct copy of a letter I sent JR Riddell on April 11, 2017, regarding Oracle's written responses to OFCCP's document production requests at Exhibits 1 and 2. In this letter, I identified that Oracle's responses to 52 requests, including RFPs 79, 87 and 88 were not clear because OFCCP did not know if Oracle had/found responsive documents, would be producing

responsive documents, or would not be producing responsive documents that it had. See page 1, 2nd paragraph from top. Attached at Exhibit 15 is a true and correct copy of the response JR Riddell sent me on April 14, 2017, wherein he stated: "Oracle does not intend to produce documents in response to those requests." See page 1, 2nd paragraph. Lastly, Oracle affirmed during the meet and confer teleconferences that it was not producing documents for these requests. In fact, JR Riddell, Oracle's counsel, accused me during the teleconferences of following a script since at the beginning of each document production request I solicited information about which objections of those stated in the responses, Oracle was using as a basis to not produce documents.

20. Oracle produced responses on March 7 and 27, 2017 – five months ago, and still has not produced a privilege log.

I swear under penalty of perjury that the foregoing is true to the best of my knowledge and that this document was executed on this 18th day of August, 2017 in San Francisco, California.



NORMAN E. GARCIA  
Senior Trial Attorney,  
SOL  
United States Department of Labor